

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

PARKERSBURG DIVISION

JAMES JOSEPH WYER,

Plaintiff,

v.

CIVIL ACTION NO. 6:13-cv-27812

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the Court are Plaintiff's Brief in Support of Judgment on the Pleadings (ECF 12) and Defendant's Brief in Support of Defendant's Decision (ECF 13). By Standing Order entered on April 8, 2013, and filed in this case on November 7, 2013, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition ("PF&R"). (ECF 4.) Magistrate Judge Tinsley filed his PF&R on January 26, 2015, which recommends that this Court deny Plaintiff's Complaint (ECF 2) and Brief in Support of Judgment on the Pleadings (ECF 12), deny Defendant's Brief in Support of Defendant's Decision (ECF 13), reverse the final decision of the Commissioner of the Social Security Administration ("Commissioner"), remand this case, and dismiss this matter from the Court's docket. (ECF 15.)

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file

timely objections constitutes a waiver of de novo review and the Plaintiff's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due by February 12, 2015. To date, no objections were filed.

Accordingly the Court **ADOPTS** the PF&R, **DENIES** Plaintiff's Complaint (ECF 2) and Brief in Support of Judgment on the Pleadings (ECF 12), **DENIES** Defendant's Brief in Support of Defendant's Decision (ECF 13), **REVERSES** the final decision of the Commissioner, **REMANDS** this case for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g), and **DISMISSES** this action from the docket of the Court.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: February 13, 2015



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE